

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

STINGRAY MUSIC USA, INC.,

Plaintiff,

vs.

uCAST LLC f/k/a QELLO, LLC

Defendant.

CIVIL ACTION NO.: 19-cv-07473-AKH

**FINAL JUDGMENT**

Plaintiff, STINGRAY MUSIC USA, INC., having filed its complaint herein on August 8, 2019; Defendant, uCAST LLC f/k/a QELLO, LLC, having appeared and filed its answer to the complaint; this Court having jurisdiction of the parties hereto and of the subject matter hereof; and this Court having ordered Plaintiff's factual matters asserted as proven, having stricken Defendant's pleadings (D.E. 47), and having found that Defendant breached the contracts between the parties.

Upon the record evidence and subsequent pleadings herein, it is hereby:

ORDERED, ADJUDGED, AND DECREED as follows:

I. DEFINITIONS

- A. "Plaintiff" means STINGRAY MUSIC USA, INC.
- B. "Defendant" means uCAST LLC f/k/a QELLO, LLC.
- C. "APA" means the Asset Purchase Agreement entered into by and between the parties on January 3, 2018.
- D. "TSA" means the Transition Services Agreement entered into by and between the parties on January 3, 2018.

E. “SLA” means the Software License Agreement entered into by and between the parties on January 3, 2018.

F. “Escrow Agreement” means the Escrow Agreement entered into by and between the parties on January 31, 2018.

G. “Agreements” means the APA, TSA, SLA, and Escrow Agreement.

### III. FINDINGS

A. This Court has stricken Defendant’s pleadings because after three to four months of multiple sanction orders, each of which gave Defendant ample time to comply with its litigation duties, “whatever remained of [this Court’s] patience has run out. . . [and the] wasteful cycle of sanctions has gone on long enough. . .” D.E. 47. Defendant left this Court with “little choice aside from” entering this Final Judgment. D.E. 47

B. Defendant breached the Agreements by failing to fulfill its obligations to maintain certain services necessary to support the functionality of the streaming service. *See* affidavit of Lloyd Perry Feldman, attached as Exhibit A at ¶ 7.

C. Defendant shall pay Plaintiff \$3,000,000.00 (three million dollars), as damages resulting from its breach of the Agreements.

D. On May 15, 2020, this Court's converted two prior sanction orders and granted a final judgment against Defendant for \$10,000.00 (ten thousand dollars) (D.E. 40). Then on June 29, 2020, this Court's entered an additional order directing Defendant to pay Plaintiff \$5,000.00 (five thousand dollars) in sanctions (D.E. 44). Both D.E. 40 and D.E. 44 are incorporated into this Final Judgment.

E. Defendant shall also pay Plaintiff \$50,000.00 (fifty thousand dollars) in sanctions, "on the grounds that Defendant has never shown that it had any colorable defense and caused a multiplication in these proceedings, adding to the costs of litigation as well as unnecessarily burdening the Court," as ordered in this Court's August 11, 2020 Default Judgment Order. D.E. 47.

F. Plaintiff's factual matters asserted, as referenced in this Court's D.E. 44, are deemed proven. Defendant's ability to challenge those factual assertions in D.E. 44 is hereby closed as part of this judgment.

H. Defendant shall pay Plaintiff post-judgment interest at the rate of 9% from the date this Final Judgment is entered until the total amount owed is paid.

M. Defendant shall have ten days from Plaintiff's submission of this Final Judgment to file an opposition contesting Plaintiff's evidence. D.E. 47.

N. This Final Judgment shall take effect on the date that it is entered.

O. Jurisdiction is retained by the Court for the purpose of enabling any of the parties to this Final Judgment to apply to this Court at any time for such further orders or directions as may be necessary or appropriate for the construction or carrying out of this Final Judgment, for the modifications of any of its provisions, for its enforcement or compliance, and for the punishment of any violation of its provisions.

Dated : August 31, 2020

Alvin K. Hellerstein /s/

ALVIN K. HELLERSTEIN  
UNITED STATES DISTRICT JUDGE